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U.S. Department of Justice

Immigration and Naturalization Service

OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536

[redacted]

File: [redacted] Office: Vermont Service Center Date: AUG 3 2000

IN RE: Petitioner: [redacted]
Beneficiary

Petition: Petition for Alien Fiance(e) Pursuant to Section 101(a)(15)(K) of the Immigration and Nationality Act, 8 U.S.C. 1101(a)(15)(K)

Public Copy

IN BEHALF OF PETITIONER: Self-represented

Identifying data deleted to prevent clearly unwarranted invasion of personal privacy

INSTRUCTIONS:
This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of $110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Terrance M. O'Reilly, Director
Administrative Appeals Office

[redacted]

DISCUSSION: The nonimmigrant visa petition was denied by the Director, Vermont Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The petitioner is a naturalized citizen of the United States. The beneficiary is a native and citizen of Laos. The director determined that the petitioner had not established that he and the beneficiary personally met within two years prior to the petition's filing date.

On appeal, the petitioner states that to travel to Laos would cause his family additional hardship since he has to help care for his step-father who suffered a stroke which left him paralyzed on his left side.

Section 101(a)(15)(K) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1101(a)(15)(K), defines "fiancee" as:

> An alien who is the fiancee or fiance of a citizen of the United States and who seeks to enter the United States solely to conclude a valid marriage with the petitioner within ninety days after entry....

Section 214(d) of the Act, 8 U.S.C. 1184(d) states in pertinent part that a fiancee petition:

> shall be approved only after satisfactory evidence is submitted by the petitioner to establish that the parties have previously met in person within two years before the date of filing the petition, have a bonafide intention to marry, and are legally able and actually willing to conclude a valid marriage in the United States within a period of ninety days after the alien's arrival...

The petition was filed with the Service on December 6, 1999. Therefore, the petitioner and the beneficiary must have met in person between December 7, 1997 and December 6, 1999.

The Petition for Alien Fiance(e) (Form I-129F) indicates that the petitioner last met his fiancee at her home in Vientiane, Laos in March 1997. Since the petitioner had not met the beneficiary in person within two years of the petition's filing date, the director denied the petition.

Absent a personal meeting, the Attorney General may waive the requirement that the parties have previously met. According to the regulation at 8 C.F.R. 214.2(k)(2), the director may exempt the petitioner from this requirement only if it is established that compliance would:

[redacted]

(1) Result in extreme hardship to the petitioner; or

(2) Violate strict and long-established customs of the beneficiary's foreign culture or social practice....

The petitioner states that the requirement that he previously met the beneficiary within two years of the petition's filing date should be waived due to his step-father's health. The petitioner explains that his step-father suffered a stroke that left him paralyzed on his left side and that his mother is unable to care for him by herself. The petitioner has not submitted any medical evidence to support these assertions. The attending physician's statement in the record is dated October 1, 1999 and states that the petitioner's step-father is still hospitalized.

In addition, the petitioner states that he is unable to take time off from work and that the travel would be an additional financial burden. Arranging for medical care for a relative, taking time off from work, and the financial hardships involved in traveling abroad as required for compliance with the statutory requirement do not constitute extreme hardship.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. 1361. The petitioner has not met that burden.

ORDER: The appeal is dismissed.